

AMENDED IN ASSEMBLY JULY 20, 2001

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AMENDED IN SENATE APRIL 18, 2001

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AMENDED IN SENATE MARCH 1, 2001

## **SENATE BILL**

**No. 19**

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**Introduced by Senator Escutia  
(Principal coauthor: Senator Alpert)**

**(Coauthors: Senators Bowen, Kuehl, Ortiz, Romero, Speier,  
Torlakson, and Vasconcellos)**

(Coauthors: Assembly Members Alquist, Aroner, Calderon, Cedillo,  
Chavez, Diaz, Firebaugh, Keeley, Koretz, Steinberg, Strom-Martin,  
and Washington)

December 4, 2000

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An act to add Article 2.5 (commencing with Section 49430) to Chapter 9 of Part 27 of the Education Code, relating to pupil health, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Escutia. Pupil health.

(1) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils.



This bill would require every school to post a summary of nutrition and physical activity laws and regulations, and the school district policies and would require the State Department of Education to develop the summary of the laws and regulations.

(2) Existing law requires that 50% of the items, other than foods reimbursed under federal law, offered for sale each schoolday at any schoolsite by any entity or organization during regular school hours be selected from a prescribed list of foods.

The bill would, commencing January 1, 2004, require the sale of all foods on school grounds *at elementary and middle schools and at schools participating in a pilot program established by the bill to be approved by the school food service program principal or a designee, subject to funding being appropriated in the 2003–04 Budget Act.*

The bill would, *subject to funding being appropriated in the 2003–04 Budget Act*, commencing January 1, 2004, with certain exceptions, permit the sale of foods at elementary schools only as full meals during breakfast and lunch periods and would require items that are sold during specified breaks to meet certain standards applicable to foods sold during the schoolday in secondary schools. The bill would restrict the sale of specified beverages at elementary and ~~secondary~~ *middle* schools. The bill would require ~~all certain foods sold or served on the schoolsite of a secondary school during the schoolday~~ *sold to pupils at specified times* outside of the federal school meal program to meet specified requirements. The bill would require fruits and vegetables to be offered for sale at any location on the schoolsite of a secondary school where competitive foods are sold.

(3) Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced-price meals.

This bill would, commencing January 1, 2004, require that reimbursement to be increased to 26¢ per meal *sold or served to pupils at elementary or middle schools.*

(4) Existing law provides for various advisory committees to be formed at the school district level.

This bill would authorize a school district to convene a Child Nutrition and Physical Activity Advisory Committee that would develop and recommend to the governing board of the school for its adoption a school district policy on nutrition and physical activity. The committee would include food service directors, food service staff, parents, pupils, physical and health education teachers, dietitians,



doctors, nurses, and interested community members. In developing the policy, the committee would be required to hold at least one public hearing. The bill would require the State Department of Education to provide a grant to a school district that develops and adopts a policy by January 1, 2003. The bill would appropriate ~~\$11,000,000~~ \$8,000,000 to the Superintendent of Public Instruction for grants and for technical support to school districts, as prescribed.

(5) By imposing new requirements on school districts, the bill would impose state-mandated local programs.

(6) This bill would require the Superintendent of Public Instruction to supervise the implementation of certain provisions enacted by the bill, as prescribed, for noncompliance. If the Superintendent of Public Instruction finds that a school district or county superintendent of schools fails to comply with those provisions, the superintendent would be required to provide the school district with a noncompliance notification and the school district would be required to adopt a corrective plan.

~~(7) This~~

*(7) The bill would require the Department of Education to establish a pilot program in which high schools voluntarily adopt food sale requirements.*

(8) This bill would require the State Department of Education, with advice from the Child Nutrition Advisory Council, to design and implement a financial incentive grant program to help and encourage schools to implement their policies and meet specified goals.

~~(8) This~~

(9) This bill would require the State Department of Health Services to monitor implementation of the program and to report to the Legislature annually and on June 1, 2004, as prescribed.

~~(9) The~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,



reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) Childhood obesity has reached epidemic levels in  
3 California and throughout the nation. Recent studies have shown  
4 that more than 30 percent of California youth are overweight and  
5 that adolescent obesity has doubled over the past two decades. In  
6 some California school districts, as many as 50 percent of pupils  
7 are overweight.

8 (b) Overweight and obese children are at higher risk for  
9 long-term health problems, including cardiovascular disease,  
10 stroke, hypertension, high blood pressure, gallbladder disease,  
11 Type 2 diabetes, asthma, and certain cancers. The lives of  
12 overweight youth are often also affected by discrimination,  
13 psychological stress, poor body image, and low self-esteem.  
14 Eighty percent of obese adolescents remain obese as adults.

15 (c) Two-thirds of all deaths in California result from four  
16 chronic diseases: heart disease, cancer, stroke, and diabetes.  
17 Health experts agree that one of the most effective ways to prevent  
18 these chronic diseases is to establish policies and programs that  
19 encourage children and adolescents to develop healthy eating and  
20 exercise habits they can maintain throughout their lives.

21 (d) A child who is physically healthy is more likely to be  
22 academically motivated, alert, and successful. Results from the  
23 1999 Physical Fitness test showed that only 20 percent of pupils  
24 in grades 5, 7, and 9 met the requirement to be considered fit.

25 (e) Healthy eating also plays an important role in learning and  
26 cognitive development. Poor diet has been found to adversely  
27 influence the ability to learn and to decrease motivation and  
28 attentiveness.

29 (f) The school environment plays an influential role in the  
30 foods children eat nearly every day. While the United States  
31 Department of Agriculture (USDA) regulates the nutrient content  
32 of meals sold under its reimbursable meal program, similar  
33 standards do not exist for “competitive foods” that are sold



outside the USDA meal programs. Competitive foods are often very high in added sugar, sodium, and fat.

(g) The state’s support of school food services is inadequate. The State Department of Education monitors schools only once every five years and lacks the resources to provide any technical assistance. The last time the state increased the state meal subsidy, beyond a cost-of-living adjustment, was in 1981, leaving California ranked 41st in the nation in school meal reimbursement rates. In order to generate revenue, many schools sell or allow vendors to sell competitive foods on campus.

(h) In a survey conducted in 2000, 95 percent of responding California school districts reported that they sell fast foods, the most common of which are sodas, pizza, cookies, chips, and burritos, contributing to the fact that carbonated drinks are the single biggest source of refined sugars in the American diet, approximately 70 percent of children in the United States who are 2 to 11 years of age exceeded current dietary recommendations for intakes of total and saturated fat, and only 21 percent of California children meet the goal of eating five servings of fruits and vegetables per day.

SEC. 2. Article 2.5 (commencing with Section 49430) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 2.5. The Pupil Nutrition, Health, and Achievement Act of 2001

49430. As used in this article, the following terms have the following meanings:

(a) “Elementary school” means a public school that maintains any grade below grade 6.

~~(b) “Secondary school” means any public school that maintains only any of grades 6 through 12, inclusive.~~

~~(c)~~

(b) “Middle school” means any public school that maintains grades 7 and 8 and no grade lower than grade 6.

(c) “High school” means any school maintaining grades 10 to 12, inclusive.

(d) “Full meal” means any combination of food items that meet a USDA-approved meal pattern.

~~(d)~~

1 (e) “Sport drinks” means any electrolyte replacement  
2 beverage that contains no more than 25 grams of sweetener *per 12*  
3 *ounce serving*.

4 49430.5. (a) The reimbursement a school receives for free  
5 and reduced-price meals *sold or served to pupils in elementary or*  
6 *middle schools* shall be increased to twenty-six cents (\$0.26).

7 (b) ~~A school~~ *Each elementary and middle school* shall receive  
8 a reimbursement of thirteen cents (\$0.13) for meals sold at full  
9 price.

10 (c) To qualify for the increased reimbursement for free and  
11 reduced-price meals and for the reimbursement for meals sold at  
12 full price, a school shall follow the United States Department of  
13 Agriculture’s Enhanced Food Based Meal Pattern, the United  
14 States Department of Agriculture’s Nutrient Standard Meal  
15 Planning, or California’s SHAPE Menu Patterns.

16 (d) The reimbursement rates set forth in this section shall be  
17 adjusted annually for increases in cost of living in the same manner  
18 set forth in Section 42238.1.

19 (e) This section shall become operative on January 1, 2004.

20 ~~49431. (a) The sale of all foods on school grounds shall be~~  
21 ~~approved by the school food service program director or the person~~  
22 ~~or entity responsible for serving meals at the school site.~~

23 49431. (a) *At elementary and middle schools, and in those*  
24 *schools participating in the pilot program created pursuant to*  
25 *Section 49433.7, the sale of all foods on school grounds shall be*  
26 *approved for compliance with the nutrition standards in the*  
27 *section by the principal of the school or by the principal’s designee.*

28 (b) (1) At elementary schools, the only food that may be sold  
29 *to pupils* during breakfast and lunch periods is food that is sold as  
30 a full meal. This subdivision does not prohibit the sale of fruits,  
31 vegetables, or beverages as individual items.

32 (2) Individual food items sold *to pupils* during morning or  
33 afternoon breaks at elementary schools shall meet the standards for  
34 foods sold ~~at secondary~~ *to pupils at middle schools*, as set forth in  
35 subdivision (c).

36 (3) Regardless of the time of day, water, milk, and 100 percent  
37 fruit juices, are the only beverages that may be sold *to pupils* at an  
38 elementary school.

~~(c) (1) Only the following beverages may be sold at secondary schools from one half hour before the start of the schoolday until one half hour after the end of the schoolday:~~

*(c) In middle schools, from one half hour before the start of the school day until after the end of the last lunch period, the following provisions apply:*

*(1) Only the following beverages may be sold to pupils at middle schools:*

(A) Fruit-based drinks that do not contain additional sweeteners.

(B) Water.

(C) Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar nondairy milk.

(D) Sports drinks.

~~(2) No beverage permitted to be sold pursuant to this subdivision may be carbonated.~~

~~(3) All snacks, sweets, or side dishes sold on the schoolsite of a secondary school outside of the federal school meal program from one half hour before the start of the schoolday until one half hour after the end of the schoolday shall meet all of the following standards:~~

~~(2) No carbonated beverage may be sold to pupils.~~

~~(3) All snacks, sweets, and side dishes sold to pupils outside the federal meal program before the end of the last lunch period must meet all of the following standards:~~

(A) Have 35 percent or less of its total calories from fat. This subparagraph does not ~~prohibit~~ *apply to* the sale of nuts and seeds.

(B) Have 10 percent or less of its total calories from saturated fat.

(C) Have 35 percent or less of its total weight composed of sugar. This subparagraph does not ~~prohibit~~ *apply to* the sale of fruits or vegetables.

(D) Be limited to 12 ounces for beverages *except sports drinks, which are limited to 20 ounces*. The beverage maximum portion ~~limitation~~ *limitations* set forth in this subparagraph ~~does~~ *do* not apply to water or milk.

~~(4) Entree items and side dishes, including, but not limited to, french fries and onion rings, shall be no larger than the portions of those foods served as part of the federal school meal program.~~



1 (5) Fruits and vegetables shall be offered for sale at any  
2 location on the schoolsite ~~of a secondary school~~ where competitive  
3 foods are sold.

4 (d) *Vending machines that contain food or beverage items that*  
5 *do not meet the nutritional standards in this section shall remain*  
6 *locked or be rendered in operable until after the end of the last*  
7 *lunch period.*

8 (e) *On no more than four days per year, a school may permit*  
9 *organizations consisting solely of pupils of that school to sell food*  
10 *items that do not meet the standards set forth in Section 49431 as*  
11 *part of a schoolwide fundraising event. Such sales shall be held on*  
12 *the same four days for any or all organizations.*

13 (f) Notwithstanding Article 3 (commencing with Section  
14 33050) of Chapter 1 of Part 20, this section shall not be waived  
15 pursuant to that article.

16 ~~(e)~~

17 (g) This section shall become operative on January 1, 2004.  
18 49432. By January 1, 2004, every school shall post a summary  
19 of nutrition and physical activity laws and regulations, and shall  
20 post the school district's nutrition and physical activity policies, in  
21 public view within all school cafeterias or other central eating  
22 areas. The State Department of Education shall develop the  
23 summary of state law and regulations.

24 (h) *This section shall become operative only if funds are*  
25 *appropriated in the Budget Act for the 2003–04 fiscal year for*  
26 *purposes of Sections 49430 and 49433.5.*

27 49433. (a) A school district *maintaining at least one*  
28 *elementary or secondary school* may convene a Child Nutrition  
29 and Physical Activity Advisory Committee that shall develop and  
30 recommend to the governing board of the school district for its  
31 adoption, school district policies on nutrition and physical activity.  
32 The committee shall include, but need not be limited to, food  
33 service directors, food service staff, staff, parents, pupils, physical  
34 and health education teachers, dietitians, health care professionals,  
35 and interested community members. In developing the policy, the  
36 committee shall hold at least one public hearing.

37 (b) The policies shall address issues and goals, including, but  
38 not limited to, all of the following:

39 (1) *Implementing the nutritional standards set forth in Section*  
40 *49431.*



- 1 (2) *Encouraging fundraisers that promote good health habits*
- 2 *and discouraging fundraisers that promote unhealthy foods.*
- 3 (3) Ensuring that no pupil is hungry.
- 4 ~~(2)~~
- 5 (4) Improving nutritional standards.
- 6 ~~(3)~~
- 7 (5) Increasing the availability of fresh fruits and vegetables.
- 8 ~~(4)~~
- 9 (6) Ensuring, to the extent possible, that the food served is
- 10 fresh.
- 11 ~~(5)~~
- 12 (7) Encouraging eligible pupils to participate in the school
- 13 lunch program.
- 14 ~~(6)~~
- 15 (8) Integrating nutrition and physical activity into the overall
- 16 curriculum.
- 17 ~~(7)~~
- 18 (9) Ensuring regular professional development for food
- 19 services staff.
- 20 ~~(8)~~
- 21 (10) Ensuring pupils a minimum of 30 minutes to eat lunch and
- 22 20 minutes to eat breakfast, when provided.
- 23 ~~(9)~~
- 24 (11) Ensuring pupils engage in healthful levels of vigorous
- 25 physical activity.
- 26 ~~(10)~~
- 27 (12) Ensuring pupils receive nutrition education.
- 28 ~~(11)~~
- 29 (13) Improving the quality of physical education curricula and
- 30 increasing training of physical education teachers.
- 31 ~~(12)~~
- 32 (14) Enforcing existing physical education requirements.
- 33 ~~(13)~~
- 34 (15) Altering the economic structures in place to encourage
- 35 healthy eating by pupils and reduce dependency on generating
- 36 profits for the school from the sale of unhealthy foods.
- 37 ~~(14)~~
- 38 (16) Developing a financing plan to implement the policies.
- 39 (c) A school district *maintaining at least one elementary or*
- 40 *middle school* may apply to the State Department of Education for



1 a grant to offset the costs of developing and adopting policies  
2 pursuant to this section. The grants shall be available to applicant  
3 school districts by January 1, 2002.

4 (d) A school district that develops and adopts policies pursuant  
5 to this section by January 1, 2003, shall receive a grant from the  
6 State Department of Education on the basis of an equal amount per  
7 unit of average daily attendance of the participating school  
8 districts, with no participating school district receiving less than  
9 four thousand dollars (\$4,000) per grant, and no participating  
10 school district receiving more than twenty-five thousand dollars  
11 (\$25,000) per grant, to offset the costs of developing the policies.

12 49433.5. The sum of ~~eleven million dollars (\$11,000,000)~~  
13 *nine million dollars (\$9,000,000)* is hereby appropriated from the  
14 General Fund to the State Department of Education, for allocation  
15 as follows:

16 (a) One million dollars (\$1,000,000) in each of the fiscal years  
17 2001–02 and 2002–03, for the purpose of providing technical  
18 support to school districts to assist in implementing Section 49433.  
19 *Activities carried out by the State Department of Education*  
20 *pursuant to this paragraph shall include, but not be limited to,*  
21 *highlighting model nutrition programs, disseminating*  
22 *information to assist in the financial management of school food*  
23 *service programs, and identifying fundraising mechanisms that*  
24 *encourage healthy habits among pupils.*

25 (b) ~~Ten million dollars (\$10,000,000)~~ *Eight million dollars*  
26 *(\$8,000,000)* for providing grants to applicant school districts, on  
27 the basis of average daily attendance of the participating school  
28 districts, for the purposes of developing policies as set forth in  
29 subdivision (c) of Section 49433. Of the amount appropriated by  
30 this subdivision, the amount of five million dollars (\$5,000,000)  
31 shall be allocated in the 2001–02 fiscal year, and five million  
32 dollars (\$5,000,000) shall be allocated in the 2002–03 fiscal year.

33 49433.7.5. *The State Department of Education shall establish*  
34 *a pilot program in which not less than 10 high schools voluntarily*  
35 *adopt the provisions of Sections 49431 and 49432. Participating*  
36 *districts will be eligible to receive a grant pursuant to subdivision*  
37 *(c) of Section 49433. Districts will be eligible for an increased*  
38 *reimbursement rate for free and reduced priced meals served at*  
39 *participating high schools as set forth in Section 49430.*

1 49434. (a) The Superintendent of Public Instruction shall  
2 annually randomly select not less than 10 percent of the school  
3 districts of the state to report compliance with this article as set  
4 forth in subdivision (b). The group selected shall be sufficient to  
5 provide a statistically random and accurate sampling of the state  
6 as a whole.

7 (b) Each school district selected pursuant to subdivision (a)  
8 shall report to the Superintendent of Public Instruction in the  
9 coordinated compliance review regarding the extent to which it  
10 has complied with this article.

11 (c) For any school district that the Superintendent of Public  
12 Instruction finds is not in compliance with the mandatory  
13 provisions of this article, the Superintendent of Public Instruction  
14 shall issue a notice of noncompliance. The noncomplying school  
15 district shall adopt, and provide to the Superintendent of Public  
16 Instruction, a corrective plan. The corrective plan shall set forth  
17 the actions to be taken by the school district in order to ensure that  
18 the school district will be in full compliance within one year from  
19 the issuance of the noncompliance notification.

20 49435. The State Department of Education, with advice from  
21 the Child Nutrition Advisory Council, shall design and implement  
22 a financial incentive grant program to help and encourage schools  
23 to implement the school district policies and meet the goals  
24 described in subdivision (b) of Section 49433.

25 49436. (a) The State Department of Health Services shall  
26 monitor the implementation of Section 49431 and shall annually  
27 report to the Legislature regarding all of the following:

28 (1) The effectiveness of the policies and standards developed  
29 by school districts.

30 (2) The effect of this article upon school districts and pupils,  
31 including, but not limited to, an assessment of pupil responses and  
32 related findings.

33 (3) Recommendations for improvements or additions.

34 (b) The State Department of Health Services shall report to the  
35 Legislature by June 1, 2004, regarding the initial implementation  
36 of Section 49431.

37 SEC. 3. Notwithstanding Section 17610 of the Government  
38 Code, if the Commission on State Mandates determines that this  
39 act contains costs mandated by the state, reimbursement to local  
40 agencies and school districts for those costs shall be made pursuant

1 to Part 7 (commencing with Section 17500) of Division 4 of Title  
2 2 of the Government Code. If the statewide cost of the claim for  
3 reimbursement does not exceed one million dollars (\$1,000,000),  
4 reimbursement shall be made from the State Mandates Claims  
5 Fund.

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